

### REMARKS

In the Decision on Appeal rendered by the Board on March 30, 2009, the prior art rejections (rejections under 35 U.S.C. §§ 102 & 103) raised in the Final Office Action dated September 10, 2007, were **reversed**.

However, the Board raised a new ground of rejection under 35 U.S.C. § 112, ¶ 2. The Board rejected claims 1, 4, 6-10, 13, 15-35, and 37-42 as being “indefinite for failing to particularly point out and distinctly claim the subject matter which the appellants regard as the invention.” Decision on Appeal at 4. Specifically, the Board objected to use of the phrase “promotion attributes.” In each claim where “promotion attributes” appear, Applicant has deleted the term “promotion” to address the § 112 rejection raised by the Board.

The Board also objected to the following language in the claim: “sales promotions that have been offered.” The Board indicated that it is unclear how attributes or characteristics can be offered. Decision on Appeal at 5. To address this concern of the Board, Applicant has amended the specification on page 9 to state that a “promotion is represented by a set of attributes.” This amendment on page 9 is intended to make the page 9 description consistent with usage of “promotions” elsewhere in the specification. As explained on page 7 of the specification, “promotions are used to entice shoppers to [purchase] a particular item.” Specification, page 7, line 26. As examples, promotions “can include sales, upgrades, extended warranties, buy-one-get-one free, financing packages, free options, rebates, coupons, donations to charities, free gifts, etc.” *Id.*, page 7, line 27 – page 8, line 2. Thus, the term “promotion” as used on page 7 is consistent with the ordinary meaning of the term “promotion” used in the marketing context. Such a promotion is represented by a set of attributes, examples of which are provided on page 9 of the specification.

In view of the clarification made in light of the amendments to the specification and the claims, it is believed that the § 112 rejection raised by the Board has been overcome.

Allowance of all claims is respectfully requested.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10007924-1).

Respectfully submitted,

Date: June 1, 2009



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